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8 Attorneys for Defendants EQUIFA
9 INFORMATION SERVICES LLC

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RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION

14 *d/cpl*
15 NOEMIA CARVALHO, on behalf of
16 herself and other similarly situated people,

17 C 08 Case No. 01317 HRL

18 Plaintiff,

19 v.
20 NOTICE OF REMOVAL

21 CREDIT CONSULTING SERVICES,
22 INC., dba CCS, EQUIFAX CREDIT
23 INFORMATION SERVICES, LLC,
24 EXPERIAN INFORMATION
25 SOLUTIONS, INC., TRANS UNION LLC
and DOES 1-50, inclusive,

Defendants.

26 COMES NOW Defendant Equifax Information Services LLC ("Equifax") incorrectly
27 sued herein as "Exhibit Credit Information Services LLC" and files this Notice of Removal of
28 this action from the Superior Court of California, Monterey County, Civil Action No.
M80093, to the United States District Court for the Northern District of California, San Jose
Division, pursuant to 28 U.S.C. §§ 1332(d), 1441, 1446, and 1453 and on the basis of the
following facts demonstrating that this case may be properly removed to this Court:

29 1. Plaintiff filed an action styled *Noemia Carvalho, on behalf of herself and other*
similarly situated people *v. Credit Consulting Services, Inc. d/b/a CCS, Equifax Credit*
Information Services, LLC, Experian Information Solutions, Inc., Trans Union LLC and Does

1-50 inclusive, Civil Action File No. M 80093, in the Superior Court of California, Monterey
 2 County, on or about July 24, 2006. Defendant Equifax was served with the Summons and
 3 Complaint, through service on its agent for service of process, on November 20, 2006.

4 2. As more fully set out below, this case is properly removed to this Court
 5 pursuant to 28 U.S.C. § 1441 because Equifax has satisfied the procedural requirements for
 6 removal and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §
 7 1332(d).

8

9 **I. DEFENDANT HAS SATISFIED THE PROCEDURAL REQUIREMENTS FOR**
 10 **REMOVAL.**

11 3. Venue lies in the United States District Court for the Northern District of
 12 California, pursuant to 28 U.S.C. § 1441(a), because the original action was filed within this
 13 District and Division. The Superior Court of California, Monterey County, is located within
 14 the Northern District of California, San Jose Division. Therefore, venue is proper in this
 15 Court because it is the "district and division embracing the place where such action is
 16 pending." *See* 28 U.S.C. § 1441(a).

17 4. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings and orders that
 18 have been served upon Equifax in this action, including an Appendix of the documents, are
 19 concurrently filed herewith as Exhibit A to Notice of Removal.

20 5. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being
 21 served upon counsel for Plaintiff and Defendants and a copy is being filed with the clerk of the
 22 Superior Court of California, Monterey County.

23

24 **II. REMOVAL IS PROPER BECAUSE THE COURT HAS SUBJECT-MATTER**
 25 **JURISDICTION PURSUANT TO 28 U.S.C. § 1332.**

26 6. The Court has original jurisdiction over this action, and the action may be
 27 removed to this Court pursuant to the Class Action Fairness Act of 2005. Pub. L. No. 109-2,
 28 119 Stat. 4 (codified in scattered sections of 28 U.S.C.) ("CAFA").

1 7. This case is a putative class action in which: (1) there are 100 or more members
 2 in the Plaintiff's proposed class; (2) Plaintiff, as putative class representative, and at least some
 3 members of the proposed class have a different citizenship from Defendant; and (3) the claims
 4 of the proposed class members exceed the sum or value of \$5,000,000 in the aggregate,
 5 exclusive of interest and costs. Thus, this Court has subject-matter jurisdiction over this action
 6 pursuant to 28 U.S.C. § 1332(d).

7

8 **A. Class Action Consisting of More Than 100 Members**

9 8. In the Complaint, Plaintiff purports to represent a class of consumers seeking
 10 injunctive relief against the credit reporting agencies' reinvestigation procedures which, as
 11 presently constituted, allegedly fail to comply with the California Consumer Reporting
 12 Agencies Act ("CCRA") by, *inter alia*, failing to allow for review and consideration of all
 13 relevant information provided by the consumer in the reinvestigation process. *See* Class
 14 Action Complaint at ¶ 13. A second alleged class is comprised of California consumers who
 15 requested, but allegedly did not receive, an adequate description of the procedure used to
 16 determine the accuracy and completeness of the disputed information. *See id.* at ¶ 14.
 17 Plaintiff seeks actual damages, punitive damages, attorneys fees and costs on behalf of all class
 18 members. *See id.* at Prayer.

19 9. In the Complaint, Plaintiff alleges that class membership in each class exceeds
 20 500 members. *See id.* at ¶ 18. Accordingly, the aggregate number of class members of all
 21 proposed plaintiff classes is greater than 100 for purposes of 28 U.S.C. § 1332(d)(5)(B).

22

23 **B. Minimal Diversity Exists**

24 10. In the Complaint, Plaintiff alleges that she is a citizen of the State of California.
 25 *See* Class Action Complaint at ¶¶ 1, 12, 13, 14.

26 11. Defendant Equifax is, and was at the time Plaintiff commenced this action, a
 27 Georgia corporation duly organized and validly existing under the laws of the State of Georgia.
 28 *See* Declaration of Alicia Fluellen, ¶ 3, attached as Exhibit B hereto. Equifax maintains its

1 headquarters and principal place of business in Atlanta, Georgia. *See id.*, ¶ 4. Equifax,
 2 therefore, is a citizen of Georgia. *See id.* Thus, at least one proposed class member and one
 3 defendant are of minimally diverse citizenship, thereby satisfying CAFA's minimal diversity
 4 requirement of 28 U.S.C. § 1332(d)(2)(A) that "any member of a class of plaintiffs is a citizen
 5 of a State different from any defendant."

6

7 **C. The Amount-In-Controversy Requirement Is Satisfied**

8 12. This action arises out of the alleged mis-reporting of a collection account on
 9 Plaintiff's credit file. *See Class Action Complaint at ¶ 7.* Plaintiff claims that she filed
 10 disputes with the consumer reporting agencies but they failed to remove the alleged inaccurate
 11 item. *See id.* She alleges that Equifax and the other consumer reporting agency defendants
 12 violated California Civil Code section 1785.16 by failing to properly investigate her dispute
 13 and failing to review and consider all relevant information that she submitted. *See id.* at ¶ 8.
 14 She also alleges that Equifax and the other consumer reporting agencies failed to provide her
 15 notice as required by California Civil Code section 1785.16(d). *See id.* at ¶ 9.

16 13. Based on these facts, and as noted above, Plaintiff seeks to represent two
 17 putative classes of California consumers whom she claims are similarly situated. *See id.* at ¶¶
 18 12-19.

19 14. Plaintiff asserts claims on behalf of the putative class for violation of the
 20 CCRAA and seeks damages, including punitive damages, as prescribed by the Act. *See id.* at
 21 Prayer, p. 7. The Complaint states no specific amount of damages sought by either Plaintiff or
 22 the putative class members whose interests she reports to represent.

23 15. On February 6, 2008, the Defendants began the deposition of Plaintiff, which
 24 concluded on March 4, 2008. Although Plaintiff did not provide an exact calculation of her
 25 damages at her deposition, she testified that \$25,000 would not be enough to compensate her
 26 for her damages and that \$25,000 would not be enough for each of the 500 class members (2
 27 purported classes of 500 members each) she purports to represent.

28

1 16. Leaving aside Plaintiff's other claims and considering only the alleged actual
 2 damages, with 500 consumers each claiming "at least" \$25,000 in damages the amount in
 3 controversy exceeds \$5,000,000, as 500 consumers each claiming "at least" \$25,000 in
 4 damages would constitute, in the aggregate, at least \$12,500,000 in alleged damages.

5 17. Moreover, Plaintiff seeks punitive damages on behalf of herself and the putative
 6 class members which would multiply the alleged damages of the purported class. *See* Class
 7 Action Complaint at Prayer, p. 7.

8 18. Therefore, Equifax has a good faith belief that the amount in controversy in this
 9 case, including, but not limited to actual and punitive damages should Plaintiff prevail, clearly
 10 exceeds the jurisdictional threshold of \$5,000,000 contained in 28 U.S.C. § 1332(d).

11 19. Finally, CAFA's legislative history makes clear that doubts regarding the
 12 maintenance of interstate class actions in state or federal court should be resolved in favor of
 13 federal jurisdiction. *See, e.g.*, S. Rep. 109-14, at 43 ("Overall, new section 1332(d) is
 14 intended to expand substantially federal court jurisdiction over class actions. Its provisions
 15 should be read broadly, with a strong preference that interstate class actions should be heard in
 16 federal court if properly removed by any defendant."); *id.* at 35 (the intent of CAFA "is to
 17 strongly favor the exercise of federal diversity jurisdiction over class actions with interstate
 18 ramifications."); *id.* at 27 ("The Committee believes that federal courts are the appropriate
 19 forum to decide most interstate class actions because these cases usually involve large amounts
 20 of money and many plaintiffs, and have significant implications for interstate commerce and
 21 national policy."). Thus, for all of the reasons stated in Paragraphs 13 through 20, Plaintiff
 22 has placed in controversy an amount that satisfies the amount in controversy requirement of
 23 CAFA.

24 20. Equifax's removal is timely as the amount in controversy was not asserted until
 25 Plaintiff testified in her depositions on February 6, 2008, and March 4, 2008, that her claims
 26 and the claims of each class member exceeded \$25,000. Plaintiff's Class Action Complaint did
 27 not assert an amount of damages and thus the amount of controversy was not established by the
 28 filing, meaning that "the case stated by the initial pleading [was] not removable." 28 U.S.C. §

1 1446(b). This notice of removal is timely as it is "filed within thirty days after receipt by the
 2 defendant, through service or otherwise, of a copy of an amended pleading, motion, or other
 3 paper from which it may be first ascertained that the case is one which is or has become
 4 removable." *Id.*; see also *Durham v. Lockheed Martin Corp.*, 445 F.3d 1247, 1251-54 (9th
 5 Cir. 2006) (removal within 30 days of plaintiff's responses to interrogatories, which disclosed
 6 basis for removal for first time, was timely); *Riggs v. Continental Baking Co.*, 678 F. Supp.
 7 236, 238 (N.D. Cal. 1988) ("Defendants did not receive notice under Section 1446(b) of the
 8 facts indicating removability until plaintiff was deposed on September 30, 1987. The
 9 deposition constituted an 'other paper' under the [removal] statute.").¹

10 21. For all of the reasons stated, this action is removable to this Court pursuant to
 11 §§ 1441, 1446 and 1453, and this Court may exercise jurisdiction over this matter pursuant to
 12 28 U.S.C. § 1332.

13 22. Defendant will, promptly after the filing of this Notice of Removal, in
 14 accordance with 28 U.S.C. § 1446(d), give written notice of this Notice of Removal to all
 15 parties and will file a copy of this Notice of Removal with the Clerk of the Court of the
 16 Superior Court of California, Monterey County.

17 WHEREFORE, Defendant respectfully requests that this action be removed from the
 18 Superior Court of California, Monterey County to the United States District Court for the
 19 Northern District of California, pursuant to 28 U.S.C. §§ 1332(d), 1441 and 1453(b).

20 NOKES & QUINN
 21 _____
 22 Dated: March 6, 2008
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 24
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 26
 27
 28



THOMAS P. QUINN, JR.
 Attorneys for Defendant EQUIFAX
 INFORMATION SERVICES, LLC

¹ Because the basis for removal is CAFA, the consent of all Defendants is not required and the one-year limitation on removal of diversity actions under 28 U.S.C. § 1446(b) does not apply. See 28 U.S.C. § 1453(b).

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9 INFORMATION SERVICES LLC

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NOEMIA CARVALHO, on behalf of herself) Case No.
and other similarly situated people,

Plaintiff,

v.

DECLARATION OF ALICIA FLUELLEN

CREDIT CONSULTING SERVICES, INC.,
dba CCS, EQUIFAX CREDIT
INFORMATION SERVICES, LLC,
EXPERIAN INFORMATION SOLUTIONS,
INC., TRANS UNION LLC and DOES 1-50,
inclusive,

Defendants.

I, Alicia Fluellen, hereby declare under penalty of perjury that the following is true and correct:

1. My name is Alicia Fluellen. I am over 21 years of age and I am competent to testify as to the matters stated herein. I am the Director of Customer Care for Equifax Information Services LLC ("Equifax") and have authority to submit this declaration on its behalf in support of its removal.
2. I have personal knowledge of the facts herein stated.
3. Equifax Information Services LLC is, and was at the time Plaintiff commenced

this action, a Georgia corporation duly organized and validly existing under the laws of the State of Georgia.

4. Equifax maintains its headquarters and principal place of business in Atlanta, Georgia.

I declare under penalty of perjury that the foregoing is true and correct. Dated this 5th
day of March, 2008 at Atlanta, Georgia

By: Alicia Fluellen
Alicia Fluellen

CERTIFICATE OF SERVICE

NOEMIA CARVALHO v CCS, EQUIFAX, et al, CASE NO:

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the County of Orange, State of California, and not a party to the above-entitled cause.

On March 6, 2008, I served a true copy of the

NOTICE OF REMOVAL

[] By personally delivering it to the persons(s) indicated below in the manner as provided in FRCivP5(B);

[X] By depositing it in the United States Mail in a sealed envelope with the postage thereon fully prepaid to the following:

SEE ATTACHED SERVICE LIST

I hereby certify that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

I hereby certify under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Yvonne M. Homan
YVONNE M. HOMAN

Place of Mailing: Laguna Beach, California

Executed on March 6, 2008, at Laguna Beach, California.

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Attorneys for Defendant CREDIT CONSULTING SERVICES, INC.

CIVIL COVER SHEET

JS 44 - CAND (Rev. 11/04)

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO.)

I. (a) PLAINTIFFS

NOEMIA CARVALHO, on behalf of herself and other similarly situated people

DEFENDANTS

CREDIT CONSULTING SERVICES, INC., dba CCS, EQUIFAX CREDIT INFORMATION SERVICES, LLC, EXPERIAN INFORMATION SOLUTIONS, INC., TRANS UNION LLC and DOES 1-50, inclusive

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Monterey

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

ATTORNEYS (IF KNOWN)

C08-01317
- SEE ATTACHMENT

HRL(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
RON K. BOCHNER
3333 Bowers Avenue, Suite 130
Santa Clara, CA 95054

408-200-9890

II. BASIS OF JURISDICTION (PLACE AN 'X' IN ONE BOX ONLY)

- | | |
|--|---|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN 'X' IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

| | PTF | DEF | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|---|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 <input type="checkbox"/> 6 |

IV. ORIGIN (PLACE AN 'X' IN ONE BOX ONLY)

- | | | | | | | |
|--|--|--|---|--|---|--|
| <input type="checkbox"/> Original Proceeding | <input checked="" type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another district (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment |
|--|--|--|---|--|---|--|

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|--|--|--|--|--|
| <input type="checkbox"/> 110 Insurance | <input type="checkbox"/> PERSONAL INJURY | <input type="checkbox"/> 610 Agriculture | <input type="checkbox"/> 422 Appeal 28 USC 158 | <input type="checkbox"/> 400 State Reapportionment |
| <input type="checkbox"/> 120 Marine | <input type="checkbox"/> 310 Airplane | <input type="checkbox"/> 620 Other Food & Drug | <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 410 Antitrust |
| <input type="checkbox"/> 130 Miller Act | <input type="checkbox"/> 315 Airplane Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 | PROPERTY RIGHTS | <input type="checkbox"/> 430 Banks and Banking |
| <input type="checkbox"/> 140 Negotiable Instrument | <input type="checkbox"/> 320 Assault Libel & Slander | <input type="checkbox"/> 630 Liquor Laws | <input type="checkbox"/> 450 Commerce/ICC Rates/etc. | |
| <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment | <input type="checkbox"/> 330 Federal Employers Liability | <input type="checkbox"/> 640 RR & Truck | <input type="checkbox"/> 460 Deportation | |
| <input type="checkbox"/> 151 Medicare Act | <input type="checkbox"/> 340 Marine | <input type="checkbox"/> 650 Airline Regs | <input checked="" type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations | |
| <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) | <input type="checkbox"/> 345 Marine Product Liability | <input type="checkbox"/> 660 Occupational Safety/Health | <input type="checkbox"/> 480 Consumer Credit | |
| <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits | <input type="checkbox"/> 350 Motor Vehicle | <input type="checkbox"/> 690 Other | <input type="checkbox"/> 490 Cable/Satellite TV | |
| <input type="checkbox"/> 160 Stockholders Suits | <input type="checkbox"/> 355 Motor Vehicle Product Liability | LABOR | <input type="checkbox"/> 810 Selective Service | |
| <input type="checkbox"/> 190 Other Contract | <input type="checkbox"/> 360 Other Personal Injury | <input type="checkbox"/> 710 Fair Labor Standards Act | <input type="checkbox"/> 850 Securities/Commodities/Exchange | |
| <input type="checkbox"/> 195 Contract Product Liability | <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 720 Labor/Mgmt Relations | <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 | |
| <input type="checkbox"/> 196 Franchise | | <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act | <input type="checkbox"/> 891 Agricultural Acts | |
| REAL PROPERTY | CIVIL RIGHTS | PRISONER PETITIONS | <input type="checkbox"/> 861 HIA (1395ff) | <input type="checkbox"/> 892 Economic Stabilization Act |
| <input type="checkbox"/> 210 Land Condemnation | <input type="checkbox"/> 441 Voting | <input type="checkbox"/> 510 Motion to Vacate Sentence Habeas Corpus: | <input type="checkbox"/> 862 Black Lung (923) | <input type="checkbox"/> 893 Environmental Matters |
| <input type="checkbox"/> 220 Foreclosure | <input type="checkbox"/> 442 Employment | <input type="checkbox"/> 530 General | <input type="checkbox"/> 863 DIWC/DIWV (405(g)) | <input type="checkbox"/> 894 Energy Allocation Act |
| <input type="checkbox"/> 230 Rent Lease & Ejectment | <input type="checkbox"/> 443 Housing | <input type="checkbox"/> 535 Death Penalty | <input type="checkbox"/> 864 SSID Title XVI | <input type="checkbox"/> 895 Freedom of Information Act |
| <input type="checkbox"/> 240 Torts to Land | <input type="checkbox"/> 444 Welfare | <input type="checkbox"/> 540 Mandamus & Other | <input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice |
| <input type="checkbox"/> 245 Tort Product Liability | <input type="checkbox"/> 440 Other Civil Rights | <input type="checkbox"/> 550 Civil Rights | FEDERAL TAX SUITS | <input type="checkbox"/> 950 Constitutionality of State Statutes |
| <input type="checkbox"/> 290 All Other Real Property | <input type="checkbox"/> 445 Amer w/ disab - Emp | <input type="checkbox"/> 555 Prison Condition | <input type="checkbox"/> 870 Taxes (US Plaintiff or Defendant) | <input type="checkbox"/> 890 Other Statutory Actions |
| | <input type="checkbox"/> 446 Amer w/ disab - Other | | <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609 | |

VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

28 U.S.C. Sections 1332(d), 1441, 1446 and 1453 - Class Action Fairness Act of 2005

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION DEMAND \$ 5,000,000.

CHECK YES only if demanded in complaint:
JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)
(PLACE AN "X" IN ONE BOX ONLY) SAN FRANCISCO/OAKLAND SAN JOSE

DATE March 6, 2008

SIGNATURE OF ATTORNEY OF RECORD

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